

AO 241 (Rev. 5/85)

1 PETITION UNDER 28 USC § 2254 FOR WRIT OF
HABEAS CORPUS BY A PERSON IN STATE CUSTODY

United States District Court		District <u>Hampden County</u>
Name <u>John R. Hallums Jr.</u>	Prisoner No. <u>W69281</u>	Case No. <u>00-1551</u>
Place of Confinement <u>SOUZA BARANOWSKI CORR Center, Shirley, MA. 01464</u>		
Name of Petitioner (include name under which convicted) <u>John R. Hallums Jr.</u>		Name of Respondent (authorized person having custody of petitioner) <u>LOIS RISSA / WGY</u>
v.		
The Attorney General of the State of: <u>Massachusetts</u>		
PETITION		MAGISTRATE JUDGE <u>Burlet</u>
1. Name and location of court which entered the judgment of conviction under attack <u>Superior Court.</u> <u>Hampden County</u>		
2. Date of judgment of conviction <u>March 21, 2001</u>		
3. Length of sentence <u>20 to 30 years</u>		
4. Nature of offense involved (all counts) <u>Home Invasion, Burglary Armed, Assault battery by means Dangerous Weapon, Assault battery with dangerous weapon, Assault battery.</u>		
5. What was your plea? (Check one)		
(a) Not guilty <input checked="" type="checkbox"/> (b) Guilty <input type="checkbox"/> (c) Nolo contendere <input type="checkbox"/>		
If you entered a guilty plea to one count or indictment, and not a guilty plea to another count or indictment, give details:		
6. If you pleaded not guilty, what kind of trial did you have? (Check one)		
(a) Jury <input checked="" type="checkbox"/> (b) Judge only <input type="checkbox"/>		
7. Did you testify at the trial?		
Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> <u>But I wanted to.</u>		
8. Did you appeal from the judgment of conviction?		
Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		

RECEIPT # 5
 AMOUNT \$ 5
 SUMMONS ISSUED NIX
 LOCAL RULE 4.1 1
 WAIVER FORM 1
 MCF ISSUED 1
 BY DPTY. CLK. 1
 DATE 6/6/05

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9. If you did appeal, answer the following:

(a) Name of court Appeals Court of Massachusetts(b) Result Denied(c) Date of result and citation, if known April 2004(d) Grounds raised that the comm did not reach the element of Home Invasion, Armed Assault. Some one Being Push....
(on the Back Page) →

(e) If you sought further review of the decision on appeal by a higher state court, please answer the following:

(1) Name of court The Supreme Judicial Court of Massachusetts(2) Result Denial of FAR application, Denied.(3) Date of result and citation, if known May 30 2004(4) Grounds raised The same as my direct Appeal, comm did not reach the element of the crime.

(f) If you filed a petition for certiorari in the United States Supreme Court, please answer the following with respect to each direct appeal:

(1) Name of court _____

(2) Result _____

(3) Date of result and citation, if known _____

(4) Grounds raised _____

10. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions with respect to this judgment in any court, state or federal?

Yes ☒ No ☐

11. If your answer to 10 was "yes," give the following information:

(a) (1) Name of court Hampden County Superior Court(2) Nature of proceeding Rule 30 Motion(3) Grounds raised Ineffective of Assistance of Counsel During trial and Appeal, Miscarriage of Justice
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Prosecutor made unlawful closing statements
during closing Arguments.

(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes ☐No ☒

(5) Result Never admitted by the Trial Judge

(6) Date of result _____

(b) As to any second petition, application or motion give the same information:

(1) Name of court _____

(2) Nature of proceeding _____

(3) Grounds raised _____

(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes ☐No ☒

(5) Result _____

(6) Date of result _____

(c) Did you appeal to the highest state court having jurisdiction the result of action taken on any petition, application or motion?

(1) First petition, etc.

Yes ☐No ☒

(2) Second petition, etc.

Yes ☐No ☒

(d) If you did *not* appeal from the adverse action on any petition, application or motion, explain briefly why you did not:

12. State *concisely* every ground on which you claim that you are being held unlawfully. Summarize *briefly* the *facts* supporting each ground. If necessary, you may attach pages stating additional grounds and *facts* supporting the same.

Caution: In order to proceed in the federal court, you must ordinarily first exhaust your available state court remedies as to each ground on which you request action by the federal court. If you fail to set forth all grounds in this petition, you may be barred from presenting additional grounds at a later date.

For your information, the following is a list of the most frequently raised grounds for relief in habeas corpus proceedings. Each statement preceded by a letter constitutes a separate ground for possible relief. You may raise any grounds which you may have other than those listed if you have exhausted your state court remedies with respect to them. However, *you should raise in this petition all available grounds* (relating to this conviction) on which you base your allegations that you are being held in custody unlawfully.

Do not check any of these listed grounds. If you select one or more of these grounds for relief, you must allege facts. The petition will be returned to you if you merely check (a) through (j) or any one of these grounds.

- (a) Conviction obtained by plea of guilty which was unlawfully induced or not made voluntarily with understanding of the nature of the charge and the consequences of the plea.
- (b) Conviction obtained by use of coerced confession.
- (c) Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure.
- (d) Conviction obtained by use of evidence obtained pursuant to an unlawful arrest.
- (e) Conviction obtained by a violation of the privilege against self-incrimination.
- (f) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
- (g) Conviction obtained by a violation of the protection against double jeopardy.
- (h) Conviction obtained by action of a grand or petit jury which was unconstitutionally selected and impaneled.
- (i) Denial of effective assistance of counsel.
- (h) Denial of right of appeal.

A. Ground one: The Commonwealth did not meet the elements of house invasion.

Supporting FACTS (state briefly without citing cases or law) The so called victim was suppose to be in A fight on his porch with three men and was push into his house door and fall inside the hall with the three men, threw all three men out the door at the same time then close the door, and later came back out to chase them.

B. Ground two: The Commonwealth did not meet the element of Armed Assault.

Supporting FACTS (state briefly without citing cases or law) There was never a breaking, nor an occupant within the dwelling during the alleged breaking, nor an intent to commit an independent felony. whether the resident was push against his front door or deliberately retreated, there was no actual breaking in this case.

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- C. Ground three: Ineffective of counsel, and denied effective of assistance of counsel.

Supporting FACTS (state briefly without citing cases or law) never no medical record of the victim being beat by three me hit over 20 times with a brick and bottles, gave a state at the Grand Jury and trial he went to the Hospital and was examine by someone. The Trial lawyer never request these so-called records.

- D. Ground four: Ineffective of counsel and denied effective of assistance.

Supporting FACTS (state briefly without citing cases or law) there was no kind of investigation at all no photos of this porch inside four men combat, no test test of the weapons, ect. Procurers closing state ments were unlawful and damaging to the defendant were it effected the outcome of the trial.

13. If any of the grounds listed in 12A, B, C, and D were not previously presented in any other court, state or federal, state briefly what grounds were not so presented, and give your reasons for not presenting them: _____

14. Do you have any petition or appeal now pending in any court, either state or federal, as to the judgment under attack?

Yes ☐ No ☒

15. Give the name and address, if known, of each attorney who represented you in the following stages of judgment attacked herein:

(a) At preliminary hearing _____

(b) At arraignment and plea _____

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- (c) At trial _____
- (d) At sentencing _____
- (e) On appeal _____
- (f) In any post-conviction proceeding _____
- (g) On appeal from any adverse ruling in a post-conviction proceeding _____

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and the same time?

Yes ☐ No ☒

17. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?

Yes ☐ No ☒

(a) If so, give name and location of court which imposed sentence to be served in the future: _____

(b) Give date and length of the above sentence: _____

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future?

Yes ☐ No ☒

Wherefore, petitioner prays that the Court grant petitioner relief to which he may be entitled in this proceeding.

John Hall Pro se
Signature of Attorney (if any)

I declare under penalty of perjury that the foregoing is true and correct. Executed on

05-12-05
(date)

John Hall Pro se
Signature of Petitioner